

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed January 14, 2004. In order to advance prosecution of this case, Applicants amend Claims 2, 3, 5-7, 9-11, 13-15, and 17-19. Applicants respectfully request reconsideration and favorable action in this case. None of the claim amendments narrow the scope of the amended claims. Claims 2 and 3 were amended to correct typographical errors, and Claims 5-7, 9-11, 13-15 and 17-19 were amended, as required by the Office Action, to more clearly point out limitations that were inherent as originally filed.

**Specification Objection**

The Office Action objected to the Abstract of the Disclosure. Pursuant to the request of the Examiner, Applicants amend the specification by attaching a substitute Abstract of the Disclosure to replace the Abstract of the Disclosure originally filed in this application. The substitute Abstract of the Disclosure adds no new matter.

**Section 112 Rejections**

The Office Action rejects Claims 5-7, 9-11, 13-15, and 17-19 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, and as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. Applicants respectfully traverse these rejections for the reasons stated below.

The Office Action contends that:

The omitted structural cooperative relationships are: the relationship between RAM, disk drive(s), active memory and standby memory. In fact, it appears as if at least two of these items are the same item. For example, active and standby memory can be the same thing, which in turn can be part of or all of either a RAM or a drive. Further, it is not clear if a data on the RAM is originally moved from the local drive media. See Office Action, page 2, paragraph 5.

Applicants initially point out that none of the rejected claims include any reference to a “disk drive(s)”. Therefore, Applicants do not believe that the omission of any “structural cooperative relationships” regarding the “disk drive(s)” support a rejection of Claims 5-7, 9-11, 13-15, or 17-19.

The Office Action notes further that “it appears that at least two of these items are the same item. For example, active and standby memory can be the same thing, which in turn can be part of or all of either a RAM or a drive.” See *Id.* However, none of the claims that are rejected under 35 U.S.C. ¶ 112 include both an active and standby memory. Also, whether or not an active and standby memory “can be the same thing” is irrelevant to a rejection under 35 U.S.C. ¶ 112. For example, assuming *arguendo* that active memory and standby memory could “be the same thing” as the Office Action contends, it is entirely proper for Applicants to identify that “thing” as active memory in one claim and standby memory in another claim.

In support of the rejection under 35 U.S.C., the Office Action contends further that “it is not clear if the data on RAM is originally moved from local drive media.” See *Id.* This argument does not support a rejection of any of Claims 5-7, 9-11, 13-15, or 17-19 under 35 U.S.C. ¶ 112. For the purposes of such claims, whether or not the “data on RAM is originally moved from local drive media” is irrelevant to the inventions defined by Claims 5-7, 9-11, 13-15, and 17-19.

In order to advance prosecution of this case, however, Applicants have amended Claims 5-7, 9-11, 13-15, and 17-19 in order to clarify that particular components are coupled for communication with one another. For example, amended Claim 5 is directed to a method for managing a plurality of network elements of a telecommunications network, wherein at least one of the plurality of network elements comprises an OSI network element. The OSI network element has an active memory, and a random access memory that is coupled for communication with the active memory. Configuration files are copied to the random access memory, from the active memory. Furthermore, contents of the random access memory are

copied to the network element manager using OSI FTAM protocol. Thus, Claim 5 particularly points out and distinctly claims the subject matter which Applicants regard as the invention, and does not omit essential structural cooperative relationships of elements.

Applicants respectfully contend further, that all of Claims 5-7, 9-11, 13-15, and 17-19 each particularly point out and distinctly claim the subject matter which Applicants regard as the invention and include all essential structural cooperative relationships of elements. Accordingly, Applicants respectfully request that the Examiner reconsider the rejection of Claims 5-7, 9-11, 13-15, and 17-19 under 35 U.S.C. ¶ 112.

#### **Section 102 Rejections**

The Office Action rejects Claims 1-4, 12 and 20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,966,760 issued to Zulch ("Zulch"). Applicants respectfully traverse these rejections for the reasons stated below.

Claim 1 is directed to a computer/software system for managing telecommunication network elements that includes one or more operator-driven processes which monitor and manage network elements in real time, using at least one telecommunications network control channel. *Zulch* does not disclose, teach, or suggest each of the limitations.

The "network elements" of Claim 1 are clearly defined in the specification of the present application, as follows:

The term [network element] refers to hardware only or a combination hardware and software system that is primarily designed to directly perform a telecommunications service function. For example, an [network element] is the part of the network equipment where a transport entity (such as a line, path, or section) is terminated and monitored. See specification, page 121, lines 8-11, and page 16, line 32.

Furthermore, the "network element" of a telecommunications network is clearly distinguished from a "network element" or "element manager" of a computer network in the

specification of the present invention. For example, at page 2, lines 5-9, the specification of the present invention indicates:

It should be noted that the terms "element" and "element manager" are also sometimes used in reference to computer networks rather than telecommunications networks. However, the requirements for element management and such networks are vastly different from those relevant to telecommunications networks.

Thus, the network elements of Claim 1 are clearly distinguishable from the computers C<sub>1</sub> - C<sub>6</sub> of Network of *Zulch*.

Furthermore, *Zulch* does not disclose, teach, or suggest at least one "telecommunications network control channel". The Network of *Zulch* is not a telecommunications network, and thus, does not disclose, teach, or suggest a telecommunications network control channel.

Claims 2 and 3 each depend from Claim 1. Therefore, Applicants respectfully contend that Claims 2 and 3 are patentably distinguishable from *Zulch* for example, for the same reasons discussed above with regard to Claim 1.

Claim 4 is directed to a method for managing a plurality of network elements of a telecommunications network that includes coupling a telecommunications network element manager with a plurality of network elements using at least one telecommunications network control channel. As discussed above with regard to Claim 1, *Zulch* does not disclose, teach, or suggest the "network elements" of Claim 4, or the "telecommunications network control channel" of Claim 4. Furthermore, *Zulch* does not disclose, teach, or suggest a telecommunications network element manager, since the network of *Zulch* is not a "telecommunications network", the "network element" of Claim 4 is distinguishable from *Zulch*, and since the specification of the present application clearly distinguishes between a telecommunications network element manager and a computer network element manager. For at least these reasons, Applicants respectfully contend that Claim 4 is patentably distinguishable from *Zulch*.

Claim 12 is directed to a network element manager that includes an interface being operable to communicate with a plurality of telecommunications network elements using at least one telecommunications network channel. As discussed above with regard to Claim 1, *Zulch* does not disclose, teach, or suggest the “network elements” or “telecommunications network control channel” of Claim 12. For at least these reasons, Applicants respectfully contend that Claim 12 is patentably distinguishable from *Zulch*.

Claim 20 is directed to a telecommunications system that includes a network element manager and a plurality of telecommunications network elements, each network element being coupled for communication with the network element manager using at least one telecommunications network control channel. As discussed above with regard to Claim 1, *Zulch* does not disclose, teach, or suggest the “telecommunications network elements”, “network element manager”, nor the “telecommunications network control channel” of Claim 20. For at least these reasons Applicants respectfully contend that Claim 20 is patentably distinguishable from *Zulch*.

**Section 103 Rejections**

The Office Action rejects Claims 5-7, 13-15 under 35 U.S.C. § 103(a) as being unpatentable over *Zulch* as applied to claims 1-4, 12 and 20 above, and further in view of U.S. Patent No. 6,038,379 issued to Fletcher et al. ("Fletcher") and U.S. Patent No. 6,101,533 issued to Brandt et al. ("Brandt") and U.S. Patent No. 5,974,547 issued to Klimenko ("Klimenko"). Applicants respectfully traverse these rejections for the reasons stated below.

Claims 5-7 each depend, either directly or indirectly, from independent Claim 4. Therefore, Applicants respectfully contend that Claims 5-7 are each patentably distinguishable from the cited portions of the references relied upon by the Examiner, for example, for the same reasons discussed above with regard to Claim 1. The rejections of Claims 5-7 each depend upon the contention of the Office Action that *Zulch* discloses a "network element", and a "telecommunications network control channel." As discussed above with regard to Claim 1, Applicants respectfully traverse this contention of the Office Action. For at least these reasons, Applicants respectfully contend that Claims 5-7 are each patentably distinguishable from the cited portions of the references relied upon by the Office Action.

Similarly, each of Claims 13-15 depend, either directly or indirectly, from independent Claim 12. Applicants respectfully contend that the rejection of Claims 12-15 each rely upon an incorrect characterization of the *Zulch* reference. For the reasons discussed above with regard to Claim 12, Applicants respectfully contend that Claims 13-15 are each patentably distinguishable from the cited portions of the references relied upon by the Office Action.

The Office Action rejects Claims 8-11 and 16-19 under 35 U.S.C. § 103(a) as being unpatentable over *Zulch* as applied to claims 1-4, 12 and 20 above, and further in view of U.S. Patent No. 6,330,715 issued to Razzaghe-Ashrafi ("RazzagheAshrafi"). Applicants respectfully traverse these rejections for the reasons stated below.

Claims 8-11 each depend, either directly or indirectly, from independent Claim 4. Claims 16-19 each depend, either directly or indirectly, from independent Claim 12. As discussed above with regard to their base claims, these rejections are based upon an improper characterization of the *Zulch* reference. Applicants respectfully contend that *Zulch* does not disclose, teach, or suggest each of the elements of any one of Claims 8-11 and 16-19. For at least these reasons, Applicants respectfully contend that Claims 8-11 and 16-19 are each patentably distinguishable from the cited portions of the references relied upon by the Office Action.

**Official Notice**

Applicants respectfully traverse the Official Notice taken by the Office Action, as it pertains to the present invention. For example, the Examiner takes Official Notice that the reversal of a process in a computer networking environment was well known at the time the invention was made. Applicants respectfully contend that many systems are designed to perform a one-way process, and that reversal of such a process is not obvious. The Office Action also contends that specific steps, functions and/or processes are "obvious." Applicants respectfully traverse, and point out that such an assertion in the Office Action does not amount to "Official Notice."

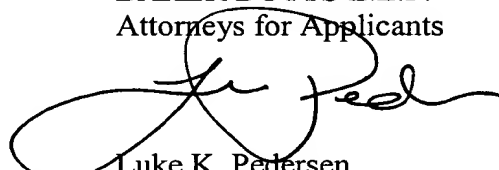
Conclusions

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fee is due, however; should there be a fee discrepancy, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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